

DHF

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TIN P. CHU,	:	05 CV 3864 (ARR)
	:	
Petitioner,	:	<u>NOT FOR ELECTRONIC</u>
	:	<u>OR PRINT</u>
-against-	:	<u>PUBLICATION</u>
	:	
SUPERINTENDENT WILLIAM LAPE,	:	<u>ORDER</u>
	:	
Respondent.	:	
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ROSS, United States District Judge:

By letter dated January 16, 2006, petitioner pro se, Tin P. Chu (“petitioner”) requests a stay and abeyance to exhaust state court remedies. Petitioner fails to state which claims he intends to bring in a coram nobis proceeding. Given that all the claims in the instant petition were raised on direct appeal, petitioner’s claims appear to be exhausted. If, however, petitioner is raising new claims in his letter, those claims must “relate back” to the original petition in order to meet the one-year statute of limitations under AEDPA and, thus, warrant the court’s review. See Fed. R. Civ. P. 15(c)(2); see also Mayle v. Felix, 125 S. Ct. 2562, 2574 (2005) (“So long as the original and amended petitions state claims that are tied to a common core of operative facts, relation back will be in order.”). Moreover, in order for the court to grant a stay and abeyance to exhaust state court remedies, petitioner must have “good cause” for failing to exhaust. See Rhines v. Weber, 125 S. Ct. 1528 (2005). Thus, the court orders petitioner to describe in further detail the claims he wants to exhaust and to explain why he failed to exhaust those claims prior to filing the instant petition. Petitioner’s submission is due on or before May 5, 2006. If

petitioner fails to respond by that date, the court will deny petitioner's request for a stay.

Petitioner has also requested assignment of counsel. Petitioner's request is denied at this time without prejudice to renewal after briefing is completed.

SO ORDERED.

Allyne R. Ross
United States District Judge

Dated: April 18, 2006
Brooklyn, New York

SERVICE LIST

***Pro Se* Petitioner:**

Tin P. Chu
03R3314, C1-25B
Marcy Correctional Facility
P.O. Box 3600
Marcy, NY 13403-3600

Respondent's Counsel:

Shulamit Rosenblum
Office of the District Attorney, Kings County
Renaissance Plaza
350 Jay Street
Brooklyn, NY 11201